IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE V.GIRI

FRIDAY, THE 19TH OCTOBER 2007 / 27TH ASWINA 1929

WP(C).No. 26425 of 2007(U)

PETITIONERS:

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1. **I.G.RATNAMANI, ASSISTANT GRADE I(HG),**
   KERALA STATE BEVERAGES CORPORATION LTD.
   WAREHOUSE, PETTA, THRIPUNITHURA.

2. **P.S.SAJEEVAN,**
   ASSISTANT GRADE I(HG),
   KERALA STATE BEVERAGES CORPORATION LTD.
   FL-I SHOP NO.153, THRISSUR.

3. **K.NANDAKUMARAN,**
   ASSISTANT GRADE I (HG),
   KERALA STATE BEVERAGES CORPORATION LTD.
   WAREHOUSE, PETTA, THRIPUNITHURA.

4. **K.K.JAYAN,**
   ASSISTANT GRADE I (HG),
   KERALA STATE BEVERAGES CORPORATION LTD.
   WAREHOUSE, PETTA, THRIPUNITHURA.

5. **M.N.SURESH BABU,**
   ASSISTANT GRADE I(HG),
   KERALA STATE BEVERAGES CORPORATION LTD.
   FL-I SHOP NO.262, KALADY.

6. **K.K.GOPI,**
   ASSISTANT GRADE I(HG),
   KERALA STATE BEVERAGES CORPORATION LTD.
   FL-I SHOP NO.158, IRINJALAKUDA.

7. **B.K.CHANDRAN,**
   ASSISTANT GRADE I(HG),
   KERALA STATE BEVERAGES CORPORATION LTD.,
   FL-I SHOP NO.151, THRISSUR.

8. T.G.PRADEEP, ASSISTANT GRADE I(HG),
KERALA STATE BEVERAGES CORPORATION LTD.
FL-I SHOP NO.322, VADANAPPILLY.

9. K.R.RAJEEVALOCHANAN,
ASSISTANT GRADE I (HG),
KERALA STATE BEVERAGES CORPORATION LTD.
WARE HOUSE, CHOONDI, ALUVA.

10. E.V.CHANDRAN,
ASSISTANT GRADE I(HG),
KERALA STATE BEVERAGES CORPORATION LTD.
FL-I SHOP NO.139, PERUMBAVOOR.

11. K.M.ARUN, ASSISTANT GRADE I(HG),
KERALA STATE BEVERAGES CORPORATION LTD.
FL-I, SHOP NO.148, THRISSUR.

12. K.B.DEVADAS, ASSISTANT GRADE I(HG),
KERALA STATE BEVERAGES CORPORATION LTD.
FL-I SHOP NO.322, VADANAPPILLY.

BY ADV. SRI.K.I.MAYANKUTTY MATHER
SMT.S.LAKSHMY

RESPONDENTS:
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1. KERALA STATE BEVERAGES (M & M)
CORPORATION LTD., THIRUVANANTHAPURAM-10
REPRESENTED BY ITS MANAGING DIRECTOR.

2. STATE OF KERALA,
REPRESENTED BY SECRETARY TO GOVERNMENT
TAXES DEPARTMENT, SECRETARIAT,
THIRUVANANTHAPURAM.

3. S.S.THANU, ASSISTANT GRADE I(HG),
KERALA STATE BEVERAGES CORPORATION LTD.
HEAD OFFICE, SASTHAMANGALAM, THIRUVANANTHAPURAM.

BY ADV. SRI.MILLU DANDAPANI
BY GOVERNMENT PLEADER SRI.BEJOY CHANDRAN

THIS WRIT PETITION (CIVIL) HAVING COME UP FOR ADMISSION ON 19/10/2007, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

V. GIRI ,J.

WP(C).NO.26425 of 2007

Dated this the 19th day of October, 2007

JUDGMENT

The petitioners are working as Assistants Grade II in the Kerala State Beverages Corporation. They aspire for promotion to the post of Accountant/Assistant Manager. Till recently, the method of appointment to the post of Accountant was by promotion from among Assistants Grade I, having experience of three years and having the Degree of M.com/Inter CA or Inter AICWA. For an Assistant Manager, the qualification prescribed was experience as Assistant Grade I for three years alone. It was also mentioned in the special rules that Accountants may be transferred as Assistant Managers. In 1989, 15 posts of Assistant Managers and 15 posts of Accountants were sanctioned. The petitioners contend that since it was found that in-service candidates did not have either the qualification of M.Com/Inter CA/Inter AICWA, the matter was taken up with the Government and the Government

issued Ext.P3 order followed by Ext.P4 order of the Beverages Corporation, to provide that 75 days training in the Institute of Management in Government will be a sufficient qualification for the purpose of promotion to the post of Accountant. Pursuant thereto all the petitioners underwent training and certificates have been issued as well. They are otherwise eligible to be considered for promotion to the post of Accountant or Assistant Manager as the case may be. They contend that persons senior to them, who had undergone training for three months as mentioned in Exts.P3 and P4, was actually later promoted as Accountant/Assistant Manager treating the said training as a sufficient qualification. They also contend that having undergone the training, they have a right to be considered for promotion to the post of Assistant Manager or Accountant.

2. While so, as per Ext.P7, recruitment rules in respect of various posts in the Beverages

Corporation was amended because it was decided that direct recruitment to several posts has to be done by the PSC. The qualification for the post of Accountant and Assistant Manager is prescribed as follows:

Assistant Manager:

> ***An Assistant Manager with M.Com/Inter CA/Inter AICWA/holding Certificates proving successful completion of training in IMG may be transferred as Accountant.***

3. When this rule came up, the petitioners found that though successful completion of training in the Institute of Management in Government, is treated as sufficient qualification for the purpose of Assistant Manager, the same is not being treated as a sufficient qualification for promotion to the post of Accountant. This is in spite of the fact that Assistant Managers who have completed training in the Institute of Management in Government can nevertheless be transferred and posted as an Accountant even as per the special rules brought into force as per

Ext.P7. The petitioners are aggrieved by the fact that the training which was undergone by them in the Institute of Management in Government, as a test qualification for the purpose of being considered for the post of Accountant is now being rendered irrelevant by the special rules.

4. In a statement filed by the Beverages Corporation, it is contended that the petitioners cannot now be considered for promotion to the post of Accountant, essentially, because they do not have the qualifications which are prescribed under Ext.P7. It is true that hitherto from 1992 onwards, training in the IMG was treated as a sufficient qualification for promotion to the post of Accountant. But now that the Government has issued Ext.P7, the petitioners cannot any longer be considered for promotion to the said post.

5. I have heard the learned counsel for the petitioners, learned standing counsel for the Beverages Corporation and the learned Government Pleader.

6. What cannot be disputed is that the Government had in Ext.P3 specifically directed that those who successfully completed the training for a period of three months in the IMG shall be considered for promotion to the post of Accountant to the Beverages Corporation. In paragraph-3 of Ext.P3, it was further directed that the Beverages Corporation will take necessary further action in the matter and they will also forward proposal for amendment of the services rules of the Corporation. If the service rules had been amended in consonance with the decision taken in Ext.P3, obviously, successful completion of the training in IMG would have been treated as adequate for being promoted to the post of Accountant. For some reason, amendment of the service rules in the case was deferred for a period of 15 years. In the meanwhile, several persons who were seniors to the petitioner had actually undergone training and such persons had been promoted to the post

of Accountant as well. It is difficult to understand as to why the amendment to the service rules now brought about in the year 2007 did not keep in mind the proposal which found favour with the Government as per Ext.P3. Even if the qualifications are prescribed as such, in relation to the post of Accountant and one of the methods of recruitment to the said post is by promotion of Assistants Grade I and the qualifications are being revised with effect from 2007 as per Ext.P7, normally, there should be a saving clause as regards the existing incumbents in the feeder category. There is no such provision which is discernible from Ext.P7.

7. I am constrained to note this essentially, because in Ext.P7, the Government has still treated a successful completion of training in IMG, as a sufficient qualification for a person who is functioning as an Assistant Manager to be appointed to the post of an Accountant by transfer. If that be so, there must be some

reason why it cannot be considered as sufficient qualification for a person to be considered for promotion to the post of Accountant from the same feeder category of an Assistant Grade I.

8. I do not propose to look into the merits of these contentions in detail at this stage, because in my view, if there is an omission, Government must get a chance to address the issue in the first instance.

9. Learned counsel for the Beverages Corporation submits that at present, subsequent to the promotion of the third respondent, there is no vacancy in the post of Accountant or an Assistant Manager which is currently available.

10. In the circumstances, the writ petition is disposed of in the following terms:

i) The petitioners may file a representation before the second respondent, detailing their claim with specific reference to the fact that the successful completion of training is treated as a

sufficient qualification for a person occupying the post of an Accountant to be appointed as an Assistant Manager by transfer and also with reference to the fact that it was in pursuance of Ext.P3 that they had actually undergone training. Petitioners may also take up other contentions as are available to them in law.

ii) Second respondent shall look into the representation and take a decision thereon, after hearing a representative of the petitioner and a representative of the first respondent within a period of three months from the date of receipt of a copy of this judgment.

iii) The first respondent shall not fill up any post of Accountant/Assistant Manager by direct recruitment pending decision of the Government in the manner as aforementioned.

iv) If the first respondent appoints any person who is already working in the Corporation as an Assistant Manager/Accountant, the same shall be provisional and shall be subject to the

decision to be taken by the Government in the manner aforementioned.

V. GIRI, JUDGE

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P.A.TO JUDGE